



ALBERTA WILDERNESS ASSOCIATION

"Defending Wild Alberta through Awareness and Action"

September 5th, 2023

The Honourable Steven Guilbeault
Minister of Environment and Climate Change Canada
Email: ec.ministre-minister.ec@canada.ca

RE: ECCC Consultation to Explore Options for the Management of Oil Sands Process-Affected Water

Dear Minister Steven Guilbeault and Environment and Climate Change Canada,

Alberta Wilderness Association (AWA) is writing you to express our concerns regarding Environment and Climate Change Canada's (ECCC) ongoing consultation and engagement process to explore options for the management of oil sands process-affected water (tailings) in the Athabasca Oil Sands Region.

AWA is the oldest Alberta-based environmental conservation group with more than 7,500 members and supporters in Alberta and around the world. AWA seeks the completion of a protected areas network and good stewardship of Alberta's public lands, waters, and biodiversity to ensure future generations enjoy the abundant benefits they provide.

We appreciate having the opportunity to review the Engagement Document titled *Introduction to the Crown-Indigenous Working Group for the Potential Oil Sands Mining Effluent Regulations*, and to provide input and recommendations as part of this public engagement period ending on September 15th, 2023.

After reviewing the Engagement Document as well as participating in the virtual engagement session hosted by ECCC on August 15th, 2023, we have significant concerns with many aspects of the process being taken by ECCC, as well as the Government of Alberta (GoA) to identify options for the management of oil sands tailings.

The current situation with regards to oil sands tailings in northern Alberta is dire, with more than 1.4 trillion liters of tailings currently stored across more than 300 square kilometres of the landscape¹. Recent leaks and spills, such as the nine-month-long leak and subsequent spill at Imperial's Kearl mine highlight the severity of the situation. A comprehensive, robust, science-based tailings reclamation strategy must be developed and implemented as soon as possible, while ensuring that it meets the needs of impacted Indigenous and other local communities.

Our feedback is summarized in the list below and outlined in greater detail in the following sections of this letter.

Summary of Concerns and/or Recommendations:

1. AWA does not support any plans or regulations which may permit the release of tailings into the Athabasca River watershed. Other options should be explored and prioritized.
2. Halt the production of additional tailings and place a moratorium on the approval of new (or expanded) oil sands mining projects until a comprehensive reclamation plan is developed.
3. Oil sands operators should be required to pay for the full cost of tailings reclamation and remediation. Public taxpayer money should not be relied upon to fund a cleanup.
4. Tailings management and/or reclamation needs to be aligned with UNDRIP, and guided by Indigenous communities to ensure it meets their needs.
5. ECCC needs to consider the cumulative effects of any/all proposed tailings management solutions.
6. There are significant jurisdictional concerns with Alberta developing their own provincial regulations independently and simultaneously to the ECCC process.

Detailed Comments:

AWA does not support the development and/or implementation of regulations and/or management plan(s) which may permit the eventual release of oil sands tailings effluent (treated or otherwise) into the Athabasca River watershed. ECCC should continue to prohibit the deposit of oil sands tailings effluent indefinitely while Industry and other stakeholders develop an adequate solution for reclamation and remediation. Other non-release options for the management of tailings wastewater need to be explored, considered, and prioritized.

The production of new and/or additional oil sands tailings should be halted, and no new (and/or expanded) oil sands mines should be approved until an adequate tailings reclamation strategy has been developed and implemented. Permitting the continued production of oil sands tailings will only result in larger volumes of wastewater to eventually clean up, posing greater risk of environmental catastrophe should the current storage technology fail again, as already observed with recent incidents at Imperial's Kearl mine and a sedimentation pond at Suncor's Fort Hills mine.

The oil and gas industry should never have been permitted to profit off the exploration, development, and operation of oil sands mining projects without specifying a science-based, end-of-life reclamation or remediation plan ensuring for the adequate cleanup of inevitable waste products. Since the 1960s, tailings have been a known byproduct of oil sands mining, and a reclamation strategy should have been a requirement from the outset. The group of six Canadian oil sands companies (CNRL, Cenovus, ConocoPhillips, Imperial Oil, MEG Energy, and Suncor), known as the Pathways Alliance, collectively recorded profits of more than \$35 billion in 2022 alone. They have more than enough money to develop and implement a robust, science-based tailings reclamation plan that meets the needs of Indigenous communities. Oil sands operators need to pay for the full cost of developing and implementing a

reclamation plan, and no public taxpayer money should be relied upon (i.e., through tax incentives, subsidies, or otherwise) to fund this strategy.

The development and implementation of an oil sands tailings management or reclamation plan needs to be guided by Indigenous communities to ensure that it does not infringe upon their inherent, Treaty-based, and/or constitutional rights, and so that it meets their needs for community health and wellbeing. Tailings reclamation must be considered from the perspective of reconciliation and developed in line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)², upholding the principles of self-determination, collective rights, and free, prior, and informed consent.

We appreciate that the Engagement Document recognizes that the: “Athabasca River watershed is already experiencing cumulative effects from oil sands, urban, industrial, and agricultural development”. A 2015 Review Panel Report³ looked at the impact of industrial activities governed by Alberta’s Lower Athabasca Regional [land use] Plan (better known as LARP) on six First Nations in the region. This report concluded that the cumulative effects of industrial development – particularly oil sands development – in the lower Athabasca Region were negatively impacting the Constitutional Rights of these six First Nations and their traditional land uses. In light of these findings, ECCC should ensure that any regulations developed for the management of oil sands tailings consider the cumulative effects of proposed solutions as well as the potential impact on local or downstream Indigenous communities (including those living across the border in the Northwest Territories).

We are concerned that Alberta may be developing their own set of regulations and/or policies for the management of tailings at the provincial level simultaneously, yet independently, of ECCC’s process. In the July 10th Ministerial Mandate Letter from Alberta Premier Danielle Smith to Alberta’s Minister of Environment and Protected Areas⁴, the first key priority states that their government will be:

“Working collaboratively with the federal government, First Nations and industry to develop and implement an accelerated strategy for oil sands mine water management and tailings pond reclamation.”

We are encouraged that the GoA is prioritizing the issue of tailings; however, specific comments made by ECCC representatives during the August 15, 2023, virtual engagement session have given us the impression that ECCC and the GoA are taking different approaches to the management of tailings. Tailings ponds pose a massive risk to both human and ecosystem health and will require intergovernmental cooperation to resolve. In developing regulations separately, the federal and provincial governments contradict any previous commitments made to meaningfully collaborate on developing effective, well-informed, and environmentally-sound solutions.

We recognize that potential tailings management solutions would likely be implemented under the Fisheries Act, which prohibits the deposit of deleterious substances into waterways (unless regulations permit otherwise), and we hope that federal jurisdiction supersedes any potentially weaker regulations developed at a provincial level.

Thank you for considering these comments and recommendations. We would also like to note that our submission of this comment letter to ECCC should not be considered as support for any management plans, regulations, or policies that permit the release of tailings effluent into Alberta's watersheds. We hope to see our concerns addressed as this engagement process proceeds.

Sincerely,

ALBERTA WILDERNESS ASSOCIATION



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References:

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